

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

TRAVIS L. ELAM,)	
)	
Petitioner/Defendant,)	
vs.)	
)	Civil No. 05-CV-4185-JPG
)	Criminal No. 03-CR-40079-07-JPG
UNITED STATES OF AMERICA,)	
)	
Respondent/Plaintiff.)	

MEMORANDUM AND ORDER

This matter comes before the court on petitioner's motions for appointment of counsel (Docs. 2, 8) and the government's motion for leave to file its response instanter (Doc. 9).

As this is a civil case, Elam has no absolute right to counsel in a civil case. *Forbes v. Edgar*, 112 F.3d 262, 264 (7th Cir. 1997). In its discretion, the Court may appoint counsel for an indigent civil litigant once it considers petitioner's diligence in attempting to secure counsel, the apparent merits of his claim, the extent to which the skill of an attorney is needed to ensure truthful exposure of the facts, petitioner's ability to manage the litigation and present his case, and the complexity of the issues in the case. *Jackson v. County of McLean*, 953 F.2d 1070, 1071-73 (7th Cir. 1992).

Here, Elam has not met the first pre-requisite to showing his need for counsel under 28 U.S.C. § 1915, his indigence. Elam is not currently proceeding *in forma pauperis*, thus his indigence has not been determined by the Court in this matter. To demonstrate his indigence, he must file a certified copy of his trust fund account statement. 28 U.S.C. § 1915(a)(2). Further, he has not shown that he has attempted to secure counsel or that he needs an attorney to develop the facts supporting his claims. For these reasons, his motions for appointment of counsel are **DENIED**. Elam may refile his request with the appropriate information if he so chooses.

The government's motion to file its response is **GRANTED**.

CONCLUSION

Elam's motions (Docs. 2, 8) are **DENIED** and the government's motion is **GRANTED** (Doc. 9).

IT IS SO ORDERED.

Dated: October 6, 2006.

s/ J. Phil Gilbert
J. PHIL GILBERT
U.S. District Judge